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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,358	12/26/2001	John L. Tetenes JR.	TETJ13A	9629
7590	10/16/2006		EXAMINER	
RICHARD L. MILLER 12 Parkside Drive Dix Hills, NY 11746-4879			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
				3643

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/027,358	TETENES, JOHN L.
	Examiner David J. Parsley	Art Unit 3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 July 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 4 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 December 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's correspondence dated 7-5-06. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to what component of the device the sheet material is as seen in lines 29 and 38 of claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 2,603,028 to Roberts in view of U.S. Patent No. 4,890,413 to Nelson et al.

Referring to claim 1, Roberts discloses a device for holding objects submerged in water, comprising, a cylindrical containing component – see at 1,3,4, having a lower edge – see proximate 4 and an upper edge – see proximate 7, a circular bottom component – at 3, permanently attached to the lower edge of the cylindrical containing component – see figure 3, a toroidal sleeve – at 6,7,7',9, being fixedly located near the upper edge of the cylindrical containing component – see figures 1 and 3, a closure device – at 15, cooperating with the upper edge via items 6,13, and pulling the upper edge closed for captivating objects in the device, a welting having edges – see at 4 in figure 3, wherein the cylindrical containing component is fabricated out of a sheet material – see at 1 in figures 1 and 3, wherein the sheet material is rectangular and has an upper edge, a lower edge and two side edges – see figures 1 and 3, and two aside edges – see proximate 2 in figure 1, wherein the upper edge of the sheet material is the upper edge of the cylindrical containing component – see figures 1 and 3, wherein the lower edge of the sheet material is the lower edge of the cylindrical containing component – see figures 1 and 3, wherein the sheet material has two side edges that are stitched together – see at 2 in figure 1 and column 1 lines 32-42, wherein the sheet material has a first plurality of orifices – at 18, therein – see figures 1 and 3, and a second plurality of orifices – at 18, inline therein – see at 13 in figure 1, wherein the sheet material – at 1, has a longitudinal area extending between the first plurality of orifices and the second plurality of orifices – see figure 1, fabricates the toroidal sleeve – see proximate 7 and 7' where the upper edge of item 1 is folded back to attach to item 7

to form the sleeve around the flotation element – 5, and has a first longitudinal area and a second longitudinal area – see at 1 in figures 1 and 3, wherein the toroidal sleeve is fabricated by attaching the first longitudinal edge of the longitudinal area and the second longitudinal edge of the longitudinal area together – see proximate 7 in figure 1 where the first longitudinal edge – at the folded back portion at the top of 1 is attached to the second longitudinal edge – the rest of item 1 via the stitching – at 7' as seen in figure 5, wherein the sheet material is flexible plastic material – see column 1 lines 31-42, wherein the circular bottom component – at 3, is fabricated out of sheet material having at least one orifice – at 18, therein – see figure 3, attached by stitching see proximate 4, near the circumference thereof and near the lower edge of the cylindrical component – see figures 1 and 3 and column 1 lines 31-42, wherein the edges of the welting are sewn in between the circumference of the circular bottom component and the lower edge of the cylindrical containing component – see proximate 4 in figure 3 and wherein the sheet material is flexible plastic material – see column 1 lines 31-42. Roberts does not disclose the device holds a bucket of chum and permits chum matter to pass through the device via the orifices. However, these are intended use/functional limitations in an apparatus claim and it is deemed that the device of Roberts is capable of performing these functions in that as seen in figures 1 and 3, the device appears to be of sufficient size to hold a bucket of chum and the orifices – at 18 appear to be of sufficient size to allow chum matter to pass therethrough. Roberts further does not disclose the closing device is a drawstring cooperating with the second plurality of orifices in the sheet material. Nelson et al. does disclose a sheet material – at 10-13, having a first plurality of orifices – see proximate 41 and a second plurality of orifices – at 22, and a drawstring – at 23, cooperating with the second plurality of orifices – see at 22, in the sheet

material – at 10-13 – see figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Roberts and add the drawstring of Nelson et al., so as to allow for the device to be quickly and manually opened and closed during use.

Referring to claim 4, Roberts as modified by Nelson et al. further discloses a foam flotation element – at 16, housed in the toroidal sleeve – at 14,17 – see figure 5 and column 2 lines 38-54 of Nelson et al. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Roberts as modified by Nelson et al. and add the foam flotation element of Nelson et al., so as to allow for the device to be buoyant when placed in water.

Response to Arguments

4. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

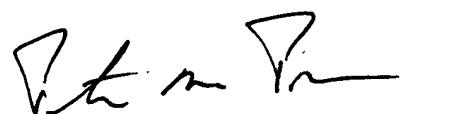
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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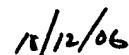
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER



11/12/06